IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

MONDAY, THE TWENTY FIRST DAY OF MARCH
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE V.ESWARAIAH

-

WRIT PETITION NO : 23943 of 2004

Between:

Kyasa Ashok, S/o.Late K.Rajanna,
Huzurabad, Karimnagar District.

..... PETITIONER

AND

The Divisional Forest officer, Karimnagar (West) Division,

Karimnagar District.

.....RESPONDENT

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the affidavit filed herein the High Court may be pleased to issue an order direction or writ in the nature of writ of Mandamus declaring the impugned proceedings passed by the Respondent in Rc.NO.7883/99/S6 dt.16-11-2004 as illegal, unjust and unsustainable, and consequently set aside the impugned proceedings dt.16-11-2004 in Rc.No.7883/99/S6.

Counsel for the Petitioner: MR.K.RAJA REDDY

Counsel for the Respondent: GP FOR FORESTS

The Court made the following:

ORDER:

The petitioner is the son of late K.Rajanna, liecensee of a Saw-mill situated at Huzurabad.

The petitioner questions the order of the respondent-Divisional Forest Officer, Karimnagar (West) Division, Karimnagar, dated 16.11.2004 in rejecting his request to transfer the licence of M/s. Rajeshwara Saw Mill, Huzurabad standing in the name of his father in his name on the ground that though the renewal licence fee was paid in time, the application for renewal of licence was not received in time.

Admittedly, the licence in respect of M/s. Rajeshwara Saw Mill, Huzurabad was granted in favour of father of petitioner viz. late K.Rajanna. Late Rajanna expired on 10.07.2001. Admittedly, the wife of late Sri K.Rajanna viz.
Smt. K.Rajeshwari paid the licence fee for the renewal of the said sawmill and the licence No.94/2000, dated 14.03.2000 was renewed up to 31.12.2002. Thus, there is no dispute that the licence was valid up to 31.12.2002. Even before the expiry of licence, in respect of the said Saw-mill, the licence fee at the rate of Rs.1,000/- per year and an amount of Rs.3,000/- towards licence fee for the renewal of licence for the years 2003, 2004 and 2005 was paid on 30.11.2002 in favour of the Divisional Forest Officer, Karimnagar (West) Division in State bank of Hyderabad, Huzurabad Branch vide D.D.No.988844, dated 30.11.2002. Therefore, even before one month of the expiry of the licence period, which was valid up to 31.12.2002, the licence fee for the renewal of the said licence for the years 2003, 2004 and 2005 was paid in time. As the original licnece holder late Sri K.Rajanna died, his wife made an application for the transfer of the licence. Therefore, it is not a case relating to renewal of the licence, but it is a case relating to transfer of licence from the original licencee to the successor or the legal heir of late Sri K.Rajanna. Therefore, pursuant to the said application, dated 05.07.2003 for transfer of the licence from the name of late Sri K.Rajanna to the name of his wife i.e. Smt. K.Rajeshwari, the authorities have directed to pay a sum of Rs.1,000/- towards saw-mill licence renewal fee for the year 2003 and an amount of Rs.2,000/- towards security deposit. Meanwhile,

there was a family settlement that took place on 8.12.2003 and in the family settlement, the said Saw-mill was allotted towards the share of the petitioner herein who is the son of late Sri K.Rajanna, Therefore, instead of paying the licence fee of Rs.1,000/- and Rs.2,000/- security deposit by the wife of late Sri K.Rajanna, the petitioner herein deposited the said sum of Rs.3,000/- i.e. Rs.1,000/- towards licence fee and Rs.2,000/- towards security deposit.

Admittedly, the licence fee was already deposited on 30.12.2002 for the renewal of the licence for the years 2003, 2004 and 2005 and therefore, the question of again paying the licence fee does not arise as directed by the respondent. But, only the security deposit has to be deposited and accordingly an amount of Rs.2,000/- was deposited in the shape of National Saving Certificate towards security deposit before the respondent.

It is pertinent to note that admittedly the respondent has issued a notice dated 24.07.2003 requesting the mother of the petitioner herein who is wife of late K.Rajanna, the original owner of the Saw-mill to pay Rs.1,000/- towards licence fee for the year 2003 through the demand draft and Rs.2,000/- towards security deposit in the shape of National Saving Certificate in favour of the Divisional Forest Offficer, Karimnagar. The said notice has been complied with by paying the licence fee in the form of demand draft and also depositing Rs.2,000/- towards security deposit in the shape of National Saving Certificate by the petitioner herein who is the son of late K.Rajanna as the saw-mill has fallen to his share in the family settlement. Therefore, it cannot be said that the notice, dated 24.07.2003 issued by the respondent has not been complied with. It is a case of transfer of licence in favour of the legal heir, but not the case of renewal of the licence as the renewal was already made up to 31.12.2002 and one month in advance renewal fee was already paid and merely because the renewal was not made, it cannot be said that there was no licence in respect of the said saw-mill as the renewal of the licence fee was made in advance and the security deposit for transferring the licence was also made. Instead of formally renewing the licence and transferring the licence in favour of the petitioner herein who is son of the original licencee i.e. late K.Rajanna, for the first time in their impugned order it has been stated that the renewal application was not made in time and, the applicant has to file a fresh application for grant of licence as the licence period was lapsed.

A perusal of the notice issued by the Divisional Forest Officer dated 24.07.2003 makes it clear that as the licence fee was already paid in respect of the said saw-mill, the issue that was pending was only relating to the transfer of the licence, but after making the security deposit, the respondent has rejected the claim of the petitioner herein on the ground that there was no formal application that was filed within the time and therefore the licence is deemed to have been lapsed and the petitioner has to file a fresh application. I am unable to accept the said reasoning given by the respondent in the impugned order as the respondent himself directed to pay the security deposit for transferring the licence and after depositing the security deposit, the respondent ought to have formally renewed the licence and ought to have transferred the said licence in favour of the legal heir of the original licensee.

Accordingly, the Writ Petition is allowed and the impugned order is set aside and the respondent is directed to formally renew the licence for the years 2003, 2004 and 2005 as the licence fee was already deposited on 30.11.2002 and transfer the licence in favour of the petitioner in accordance with law within six weeks from the date of receipt of a copy of this order. No order as to costs.

_____

V. ESWARAIAH, J

Dated:21-03-2005

Ccm

That Rule Nisi has been made absolute as above.

Witness the Hon'ble Sri Devinder Gupta, the Chief Justice on this Monday, the Twenty first day of March, Two thousand and five.

ASSISTANT REGISTRAR

To

1. The Divisional Forest officer, Karimnagar (West) Division,

Karimnagar District.

2. 2 CCs to G.P. for Forests, High Court Buildings, Hyderabad (OUT)

3. 2 CD copies.